

HON: \_\_\_\_\_

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File No.: 125511

Attorneys For Plaintiff

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
SPOKANE DIVISION**

Ash Newell,

Plaintiff,

v.

Inland Publications, Inc.,

Defendant.

Case No: \_\_\_\_\_

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

Plaintiff Ash Newell ("*Plaintiff*"), by and through his undersigned counsel, for his Complaint against defendant Inland Publications, Inc. ("*Defendant*") states and alleges as follows:

**INTRODUCTION**

1. This action seeks to recover damages for copyright infringement.

2. Plaintiff herein creates photographic images and owns the rights to

PLAINTIFF'S COMPLAINT  
Case No: \_\_\_\_\_

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1 these images which Plaintiff licenses for various uses including online and print  
2 publications.

3  
4 3. Defendant owns and operates a website known as www.inlander.com  
5 (the “Website”).

6  
7 4. Defendant, without permission or authorization from Plaintiff actively  
8 copied, stored, and/or displayed Plaintiff's Photograph on the Website and engaged  
9 in this misconduct knowingly and in violation of the United States copyright laws.

10 **PARTIES**

11  
12 5. Plaintiff Ash Newell is an individual who is a citizen of the State of  
13 Kentucky and maintains a principal place of business in Jefferson County, Kentucky.

14  
15 6. Upon information and belief, defendant Inland Publications, Inc., is a  
16 Washington corporation with a principal place of business at 1227 West Summit  
17 Parkway, Spokane in Spokane County, Washington.

18 **JURISDICTION AND VENUE**

19  
20 7. This Court has subject matter jurisdiction over the federal copyright  
21 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

22  
23 8. This Court has personal jurisdiction over Inland Publications, Inc.  
24 because it maintains its principal place of business in Washington.

25  
26 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Inland  
27 Publications, Inc. does business in this Judicial District and/or because a substantial

1 part of the events or omissions giving rise to the claim occurred in this Judicial  
2 District.

3  
4 **FACTS COMMON TO ALL CLAIMS**

5 10. Plaintiff is a professional photographer by trade who is the legal and  
6 rightful owners of photographs which Plaintiff licenses to online and print  
7 publications.  
8

9 11. Plaintiff has invested significant time and money in building Plaintiff's  
10 photograph portfolio.  
11

12 12. Plaintiff has obtained active and valid copyright registrations from the  
13 United States Copyright Office (the "USCO") which cover many of Plaintiff's  
14 photographs while many others are the subject of pending copyright applications.  
15

16 13. Plaintiff's photographs are original, creative works in which Plaintiff's  
17 own protectable copyright interests.  
18

19 14. Inland Publications, Inc. is the registered owner of the Website and is  
20 responsible for its content.

21 15. Inland Publications, Inc. is the operator of the Website and is  
22 responsible for its content.  
23

24 16. The Website is a popular and lucrative commercial enterprise.

25 17. The Website is monetized in that it contains paid advertisements and,  
26 upon information and belief, Defendant profits from these activities.  
27

1 18. On September 1, 2011, Plaintiff authored a portrait of Kris  
2 Kristofferson (the "*Photograph*"). A copy of the Photograph is attached hereto as  
3 Exhibit 1.  
4

5 19. Plaintiff applied to the USCO to register the Photograph on or about  
6 February 14, 2019 under Application No. 1-7419920812.  
7

8 20. The Photograph was registered by the USCO on February 14, 2019  
9 under Registration No. VA 2-146-260.  
10

11 21. On April 28, 2022 Plaintiff first observed the Photograph on the  
12 Website in a story dated February 14, 2019. A copy of the screengrab of the Website  
13 including the Photograph is attached hereto as Exhibit 2.  
14

15 22. The Photograph was displayed at URL:  
16 [https://www.inlander.com/spokane/a-look-at-kris-kristoffersons-career-as-](https://www.inlander.com/spokane/a-look-at-kris-kristoffersons-career-as-one-of-the-preeminent-musical-voices-of-his-generation/Content?oid=16486022)  
17 [one-of-the-preeminent-musical-voices-of-his-](https://www.inlander.com/spokane/a-look-at-kris-kristoffersons-career-as-one-of-the-preeminent-musical-voices-of-his-generation/Content?oid=16486022)  
18 [generation/Content?oid=16486022.](https://www.inlander.com/spokane/a-look-at-kris-kristoffersons-career-as-one-of-the-preeminent-musical-voices-of-his-generation/Content?oid=16486022)  
19

20 23. The Photograph was stored at URL:  
21 [https://media1.fdncms.com/inlander/imager/u/original/16486021/music2-1-](https://media1.fdncms.com/inlander/imager/u/original/16486021/music2-1-e9544b17837c9169.jpg)  
22 [e9544b17837c9169.jpg.](https://media1.fdncms.com/inlander/imager/u/original/16486021/music2-1-e9544b17837c9169.jpg)  
23

24 24. Without permission or authorization from Plaintiff, Defendant  
25 volitionally selected, copied, stored and/or displayed Plaintiff copyright protected  
26 Photograph as is set forth in Exhibit "1" on the Website.  
27

1           25. Upon information and belief, the Photograph was copied, stored and  
2 displayed without license or permission, thereby infringing on Plaintiff's copyrights  
3 (hereinafter the "*Infringement*").  
4

5           26. The Infringement includes a URL ("*Uniform Resource Locator*") for a  
6 fixed tangible medium of expression that was sufficiently permanent or stable to  
7 permit it to be communicated for a period of more than a transitory duration and  
8 therefore constitutes a specific infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v.*  
9 *Amazon.com, Inc.*, 508 F.3d 1146, 1160 (9th Cir. 2007).  
10

11           27. The Infringement is an exact copy of the entirety of Plaintiff's original  
12 image that was directly copied and stored by Defendant on the Website.  
13

14           28. Upon information and belief, Defendant takes an active and pervasive  
15 role in the content posted on its Website, including, but not limited to copying,  
16 posting, selecting, commenting on and/or displaying images including but not  
17 limited to Plaintiff's Photograph.  
18

19           29. Upon information and belief, Defendant directly contributes to the  
20 content posted on the Website by, inter alia, directly employing reporters, authors  
21 and editors as its agents, including but not limited to Nathan Weinbender who is  
22 listed on Defendant's Website as a Defendant's "Music & Film editor"  
23 ("Employees").  
24

25           30. Upon information and belief, at all material times the Employees were  
26  
27

1 acting within the course and scope of their employment when they posted the  
2 Infringement.

3  
4 31. Upon information and belief, at all material times the Employees were  
5 acting within the course and scope of their agency when they posted the  
6 Infringement.

7  
8 32. Upon information and belief, the Photograph was willfully and  
9 volitionally posted to the Website by Defendant.

10  
11 33. Upon information and belief, Defendant is not registered with the  
12 United States Copyright Office pursuant to 17 U.S.C. §512.

13  
14 34. Upon information and belief, Defendant engaged in the Infringement  
15 knowingly and in violation of applicable United States Copyright Laws.

16  
17 35. Upon information and belief, Defendant has the legal right and ability  
18 to control and limit the infringing activities on its Website and exercised and/or had  
19 the right and ability to exercise such right.

20  
21 36. Upon information and belief, Defendant monitors the content on its  
22 Website.

23  
24 37. Upon information and belief, Defendant has received a financial benefit  
25 directly attributable to the Infringement.

26  
27 38. Upon information and belief, the Infringement increased traffic to the  
28 Website and, in turn, caused Defendant to realize an increase its advertising revenues

1 and/or merchandise sales.

2 39. Upon information and belief, a large number of people have viewed the  
3 unlawful copies of the Photograph on the Website.  
4

5 40. Upon information and belief, Defendant at all times had the ability to  
6 stop the reproduction and display of Plaintiff's copyrighted material.  
7

8 41. Defendant's use of the Photograph, if widespread, would harm  
9 Plaintiff's potential market for the Photograph.

10 42. As a result of Defendant's misconduct, Plaintiff has been substantially  
11 harmed.  
12

13 **FIRST COUNT**

14 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

15 43. Plaintiff repeats and incorporates by reference the allegations contained  
16 in the preceding paragraphs, as though set forth in full herein.  
17

18 44. The Photograph is an original, creative work in which Plaintiff owns  
19 valid copyright properly registered with the United States Copyright Office.  
20

21 45. Plaintiff has not licensed Defendant the right to use the Photograph in  
22 any manner, nor has Plaintiff assigned any of its exclusive rights in the copyrights  
23 to Defendant.  
24

25 46. Without permission or authorization from Plaintiff and in willful  
26 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and  
27 illegally copied, stored, reproduced, distributed, adapted, and/or publicly displayed  
28

1 works copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in  
2 its copyrights.

3  
4 47. Defendant's reproduction of the Photograph and display of the  
5 Photograph constitutes willful copyright infringement. *Feist Publications, Inc. v.*  
6 *Rural Telephone Service Co., Inc.*, 499 U.S. 340, 361 (1991).

7  
8 48. Plaintiff is informed and believes and thereon alleges that the  
9 Defendant willfully infringed upon Plaintiff's copyrighted Photograph in violation  
10 of Title 17 of the U.S. Code, in that they used, published, communicated, posted,  
11 publicized, and otherwise held out to the public for commercial benefit, the original  
12 and unique Photograph of the Plaintiff without Plaintiff's consent or authority, by  
13 using it in the infringing article on the Website.

14  
15  
16 49. As a result of Defendant's violations of Title 17 of the U.S. Code,  
17 Plaintiff is entitled to an award of actual damages and disgorgement of all of  
18 Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504  
19 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for  
20 statutory damages against Defendant for the infringement pursuant to 17 U.S.C. §  
21 504(c).

22  
23  
24 50. As a result of the Defendant's violations of Title 17 of the U.S. Code,  
25 the court in its discretion may allow the recovery of full costs as well as reasonable  
26 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.



## JURY DEMAND

## **PRAYER FOR RELIEF**

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1 from any infringing use of any of Plaintiff's works;

2 d. for costs of litigation and reasonable attorney's fees against  
3 Defendant pursuant to 17 U.S.C. § 505;

4 e. for pre judgment interest as permitted by law; and

5 f. for any other relief the Court deems just and proper.

6  
7  
8 DATED: February 01, 2023

9 **SANDERS LAW GROUP**

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17 *Attorneys for Plaintiff*  
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